

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

LINDA J. KINDLE and 14-CIV-6784  
MICHAEL BREWLEY,

Plaintiffs, US Courthouse  
-against- : Central Islip, NY

PETER DEJANA, WILLIAM WYNPERLE,  
KAREN BOKOWSKI, ATRIUM MANAGEMENT,  
JOHN SIPALA, , et al,

Defendants.: September 5, 2017  
4:15 pm

TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE SANDRA J. FEUERSTEIN  
UNITED STATES DISTRICT JUDGE

## APPEARANCES:

For the Plaintiffs: SIRI & GLIMSTAD, LLP  
200 Park Avenue - 17th Floor  
New York, New York 10166  
BY: MASON BARNEY, ESQ.

FEINBERG JACKSON WORTHMAN &WASOW  
384 4th Street - Suite 201  
Oakland, California 94607  
BY: DAN FEINBERG, ESQ.  
TODD JACKSON, ESQ.

For the Defense: JOHN H. SNYDER, PLLC  
Dejana, Wynperle 555 Fifth Avenue - Suite 1700  
Bokowoski, Atrium New York, New York 10017  
BY: JOHN H. SNYDER, ESQ.

Sipala,  
Saddle Creek

SILLS CUMMIS & GROSS  
One Riverfront Plaza  
Newark, New Jersey 07102  
BY: MICHAEL J. GERAGHTY, ESQ.

1 Court Reporter: Dominick M. Tursi, CM, CSR  
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7

8 Proceedings recorded by mechanical stenography.  
9 Transcript produced by computer.  
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13 (After a recess, the following ensued.)  
14

15 THE COURT: Am I correct that you have something  
16 to spread on the record?  
17

18 MR. FEINBERG: Yes, your Honor.  
19

20 I thank you for your patience.  
21

22 THE COURT: Not at all.  
23

24 MR. FEINBERG: The parties would like to read  
25 the terms of the settlement into the record.  
26

27 THE COURT: Slowly.  
28

29 MR. FEINBERG: Very slowly.  
30

31 I'm going to recite these in numbered paragraphs  
32 for the court reporter's convenience.  
33

34 One. Plaintiff will supply the court and  
35 defendants with three to five names of business valuation  
36 professionals who are (1) ASA certified and (2) never  
37 hired by plaintiffs or any of plaintiffs' counsel.  
38

39 Plaintiff will disclose in writing any prior  
40

1       relationships or conflicts with respect to any of the  
2       proposed neutrals.

3                   THE COURT: And contacts.

4                   MR. FEINBERG: And contacts. Okay, your Honor.

5       Yes.

6                   The only asterisk there is, it is possible I met  
7       somebody years ago and forgot them.

8                   THE COURT: But that will be determined when the  
9       contact is revealed.

10                  MR. FEINBERG: Yes.

11                  MR. SNYDER: Obviously, any time we refer to  
12       plaintiff, we are referring to plaintiff and counsel.

13                  THE COURT: Of course.

14                  MR. FEINBERG: The names will be supplied by  
15       noon on Wednesday, September 6.

16                  Defendants shall disclose in writing any prior  
17       relationships, contacts, or conflicts with respect to any  
18       of the proposed neutrals, and may object within 24 hours  
19       (Thursday, September 7, at noon). No objections after 24  
20       hours.

21                  Two. The court will choose the candidates in  
22       ranked order. And the court's decision is binding on the  
23       parties.

24                  Three. Neither party nor counsel shall  
25       communicate with the proposed neutrals before appointment,

1 and there will be no ex parte communications with the  
2 neutral after appointment.

3 Four. The parties shall agree on and send an  
4 initial letter to inquire about retaining the first-ranked  
5 neutral selected by the court, within seven calendar days  
6 of the court's selection.

7 Five. If the top-ranked appraiser declines or  
8 does did not respond within 14 calendar days, the parties  
9 will ask the next-in-line neutral within seven calendar  
10 days.

11 Six. If the independent appraiser agrees to the  
12 assignment, the court will appoint that person as Special  
13 Master pursuant to Federal Rule of Civil Procedure 53.

14 Seven. Plaintiffs and defendants shall split  
15 the costs of the Special Master 50/50.

16 Eight. Within 15 calendar days of appointment  
17 of the Special Master, the parties shall submit position  
18 letters to the Special Master, copy the other side, with a  
19 15-page limit (double spaced).

20 The parties may submit proposed trial exhibits,  
21 depositions in this case, or any filing on the court's ECF  
22 for this case.

23 Nine. The parties, within 15 calendar days,  
24 shall supply the Special Master with any other documents  
25 he or she may request.

1                   Ten. Upon issuance of the Special Masters's  
2 report, if the valuation of Atrium is more than  
3 \$4,220,000, defendants shall deposit the difference plus 5  
4 percent simple interest per annum prejudgment interest  
5 running from December 30, 2011, until the funds are  
6 deposited in escrow in the client trust account (client  
7 escrow) of the law firm Feinberg Jackson Worthman & Wasow.

8                   Defendants shall have 30 days from the date of  
9 the Special Master's report to deposit the funds in  
10 escrow.

11                  Eleven. Within 14 calendar days from receipt of  
12 the Special Master's report, plaintiff may apply for fees,  
13 costs, disbursements, and any service award. Defendant  
14 may oppose within seven calendar days, and plaintiff may  
15 reply within seven calendar days.

16                  The parties shall jointly request a hearing date  
17 that is within 14 calendar days of the fee petition being  
18 fully briefed. Upon receipt of the court's decision on  
19 the fee petition, within seven calendar days the defendant  
20 shall place the fees, costs, disbursements, and service  
21 award amounts into escrow.

22                  Twelve. Within seven calendar days of deposit  
23 in escrow of all amounts, if any, required by paragraphs  
24 10 and 11, Mr. Sipala and Saddle Creek will be dismissed  
25 without prejudice.

5                  Fourteen. Upon class settlement becoming final,  
6                  Mr. Sipala will be dismissed with prejudice as part of the  
7                  final order approving the class settlement.

8 That is the total of our agreement, your Honor.

11 MR. FEINBERG: Yes, plaintiff's counsel agrees  
12 with this settlement, your Honor.

13 THE COURT: Mr. Snyder?

14 MR. SNYDER: Yes, the DeJana parties agree with  
15 this settlement as well, your Honor.

16 THE COURT: And Mr. Sipala and Saddle Creek  
17 agree as well?

18 MR. GERAGHTY: Saddle Creek LLP and Mr. John  
19 Sipala are in agreement.

20 THE COURT: All right. The stipulation is  
21 spread on the record and we will proceed according to its  
22 terms.

23 | MR. FEINBERG: Thank you, your Honor.

24 | THE COURT: I will do so, as well.

25 MR. SNYDER: Thank you for your assistance.

1 THE COURT: Thank you.

2 (Proceedings adjourned at 4:35 pm.)

3

4 CERTIFICATE OF COURT REPORTER

5 I certify that the foregoing is a correct transcript from  
6 the record of proceedings in the above-entitled matter.

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Dominick M. Tursi, CM, CSR

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